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Chris Hamilton

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EXAMINER

DAZENSKI, MARC A

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/071,571	<b>Applicant(s)</b> HAMILTON, CHRIS	
	<b>Examiner</b> MARC DAZENSKI	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,12,14-23,25-37 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,12,14-23,25-37,39-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 29 March 2010 have been fully considered but they are not persuasive.

On page 10 of the remarks, Applicant argues that Novak does not disclose, teach, or suggest "that a receiving home media server uses data to 'search, bid for, obtain rights to, schedule, and manage recording of broadcast, and on-demand media content.'" The examiner respectfully disagrees.

As cited in the rejection of now-canceled claim 2, column 2, lines 59-63 of Novak disclose the playback device accesses a copy of the media program from the same or a different source as the editing device, and for example, the playback device may access a copy of the media program on a DVD or may independently record the media program from a broadcast medium. If the media program were independently recorded from a broadcast medium, then the apparatus would be searching, scheduling, and managing recording of broadcast content, as newly amended claim 1 requires. Further, column 8, lines 24-47 and figure 4 (previously cited in the rejection of claim 3) discloses that the media program may be downloaded from a server, such as a video-on-demand server. The examiner maintains that since it is well known that VoD content comprises pay-per-view content, the system therefore bids for and obtains rights to on-demand media content (since PPV content has certain copyright limitations, i.e. it is not pirated material, the examiner interprets this to be "obtaining rights to" the content). Thus, the

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previously cited sections of Novak read on the limitations of newly amended claim 1 and the examiner maintains the rejection.

A full rejection of the pending claims appears below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4-10, 12, 14-16, 21-23, 25-30, and 34-37** are rejected under 35 U.S.C. 102(e) as being anticipated by Novak et al (US Patent 7,032,177).

Regarding **claim 1**, Novak discloses a method and system for distributing personalized editions of media programs using bookmarks. Further, Novak discloses a system for distributing personalized editions of media programs, which reads on the claimed, "a home media server content management and processing system," as disclosed at column 8, lines 24-26 and exhibited in figure 4; the system comprising:

editing device (402) which allows a user to designate one or more points of interest within the media program, which reads on the claimed, "an editing platform running editing software," as disclosed at column 8, lines 30-54 and exhibited in figures 4 and 5;

a copy of the media program is received by the editing device (402), which reads on the claimed, "a database, contained in the editing platform, to store media producer specified multi-media content," as disclosed at column 8, lines 39-40 (wherein if the editing device is able to receive and store a copy of the media program then there must be some type of memory/database/storage means comprised within; and further as disclosed at column 8, lines 24-29, editing device (402) may be a STB (102) which as shown in figure 3 comprises memory (306) as well as storage device (310));

bookmarks (406) which may definite points of interest within a media program and may be used by the playback device (404) to selectively skip from one point of interest to another during playback of the media program, as well as the bookmarks containing additional information, which reads on the claimed, "a set of instructions and data generated by a media producer to assemble an edited program using specified segments of the multi-media content," as disclosed at column 8, lines 35-38 as well as column 9, lines 14-37;

network (101) or internet (112) which is used to transmit bookmarks (406) from editing device (402) to playback device (404), which reads on the claimed, "a network to distribute the multi-media content, the set of instructions, and the data generated by a media producer to home media servers," as disclosed at column 8, lines 30-35; and,

playback device (404) which utilizes the received bookmarks (406) during presentation of the media program to present a personalized edition of the media program, which reads on the claimed, "a home media server to receive the multi-media content, the set of instructions, and the data from the editing platform via the network,

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wherein the home media server emulates assembly of the edited program using the multi-media content, the set of instructions and the data generated by a media producer, and displays the assembled edited program on a monitor,” as disclosed at column 10, lines 35-38 and exhibited in figures 3-4, 7, and 14; and,

the playback device accesses a copy of the media program from the same or a different source as the editing device, and for example, the playback device may access a copy of the media program on a DVD or may independently record the media program from a broadcast medium, as well as the media program may be recorded by the editing device (402) from a broadcast medium, or downloaded from a server, such as a video-on-demand server, which reads on the claimed, “wherein emulating assembly of the edited program includes using data to search a home media server storage medium and the Internet for multi-media content titles specified by the media producer and to search, bid for, obtain rights to, schedule, and manage recording of broadcast, and on-demand media content,” as disclosed at column 2, lines 59-63; column 8, lines 24-47; and exhibited in figure 4.

Regarding **claim 4**, Novak discloses everything claimed as applied above (see claim 1). Further, Novak discloses accessing the media program at the playback device, which reads on the claimed, “wherein the assembled edited program is stored in the home media server,” as exhibited in figure 14 (specifically step (1412)).

Regarding **claim 5**, Novak discloses a method and system for distributing personalized editions of media programs using bookmarks. Further, Novak discloses a method for distributing personalized editions of media programs, which reads on the

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claimed, "a method of providing home media server content management and processing," as disclosed at column 2, lines 28-29; the method comprising:

a user of an editing device creates a personalized edition including designating excerpts of a media program via bookmarks which include actions (606) and attributes (604), which reads on the claimed, "selecting, identifying, and storing by a media producer, of multi-media content as files to a storage medium within an editing platform to form files of the multi-media content; generating, by the media producer using an editing software program, a set of instructions and data for assembly of an edited program, said edited program including specified segments from the files of the multi-media content," as disclosed at column 9, lines 4-36 and column 11, lines 16-30;

a copy of the media program is received by the editing device, which reads on the claimed, "assembling the specified segments using the set of instructions and data to form the edited program; storing the edited program on the editing platform," as disclosed at column 8, lines 39-40;

the editing device then generates bookmarks defining each designated excerpt, a bookmark defining a beginning point or an end point of an excerpt, which reads on the claimed, "analyzing, using a software program, endpoint frames of each segment used in the assembly of the edited program, said analysis resulting in analysis data stored on the editing platform," as disclosed at column 3, lines 9-13;

the bookmarks are transmitted to the playback device via the internet (112) at which point they are used by the playback device (404) to present a personalized edition of the media program, which reads on the claimed, "distributing said files of the

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multi-media content, the set of instructions, the data, and the analysis data to a home media server; and, emulating assembly of the edited program by said home media server using the files of the multi-media content, the set of instructions, the data, the analysis data, and a home media server editing program, said assembled edited program being stored in the home media server,” as disclosed at column 10, lines 14-38; and,

the playback device accesses a copy of the media program from the same or a different source as the editing device, and for example, the playback device may access a copy of the media program on a DVD or may independently record the media program from a broadcast medium, as well as the media program may be recorded by the editing device (402) from a broadcast medium, or downloaded from a server, such as a video-on-demand server, which reads on the claimed, “wherein generating the set of instructions for assembly of the edited program includes directing the media server to search, bid for, obtain rights to schedule, and manage the recording of broadcast, and on-demand media content including at least one of movies, music, games, advertisements, and media processing software modules,” as disclosed at column 2, lines 59-63; column 8, lines 24-47; and exhibited in figure 4.

Regarding **claim 6**, Novak discloses everything claimed as applied above (see claim 5). Further, Novak discloses the media program may be any type of audio and/or video program, and the playback device (404) accesses a copy of the media program from the same or different source as the editing device (402), which reads on the claimed, “wherein the multi-media content includes movies and music available through

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downloaded files via the internet," as disclosed at column 8, lines 40-41 and column 12, lines 27-30.

Regarding **claim 7**, Novak discloses everything claimed as applied above (see claim 5). Further, Novak discloses a bookmark (406) may be embodied as a frame index, offset, chapter reference, scene reference, or other non-time positional indicator within the media program, which reads on the claimed, "wherein identifying of the multi-media content includes assigning titles, said titles stored as title data on the storage medium within the editing platform," as disclosed at column 9, lines 21-23.

Regarding **claim 8**, Novak discloses everything claimed as applied above (see claim 5). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 10**, Novak discloses everything claimed as applied above (see claim 5). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 12**, Novak discloses everything claimed as applied above (see claim 5). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 14**, Novak discloses everything claimed as applied above (see claim 12). Further, Novak discloses the bookmarks include a non-linear or non-chronological path through the media program, which reads on the claimed, "wherein generating the set of instructions for assembly of the edited program includes manipulating and sequencing of the specified segments by the media producer using

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the editing software program, said manipulating including creating and storing a set of manipulation instructions, said sequencing including producing and storing a sequence order,” as disclosed at column 10, lines 49-61.

Regarding **claim 15**, Novak discloses everything claimed as applied above (see claim 14). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 14 above.

Regarding **claim 16**, Novak discloses everything claimed as applied above (see claim 14). Further, the limitations of the claim are rejected in view of the explanations set forth in claims 5 and 14 above.

Regarding **claim 21**, Novak discloses everything claimed as applied above (see claim 7). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 22**, Novak discloses audio and video program recording, editing and playback systems using metadata. Further, the examiner maintains the claim is the corresponding apparatus to the method of claim 5, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 5 above.

Regarding **claim 23**, the limitations of the claim are rejected in view of the explanation set forth in claim 12 above.

Regarding **claim 25**, the limitations of the claim are rejected in view of the explanation set forth in claim 14 above.

Regarding **claim 26**, the limitations of the claim are rejected in view of the explanation set forth in claim 15 above.

Regarding **claim 27**, the limitations of the claim are rejected in view of the explanation set forth in claim 16 above.

Regarding **claim 28**, the limitations of the claim are rejected in view of the explanation set forth in claim 6 above.

Regarding **claim 29**, the limitations of the claim are rejected in view of the explanation set forth in claim 7 above.

Regarding **claim 30**, the limitations of the claim are rejected in view of the explanation set forth in claim 8 above.

Regarding **claim 34**, the limitations of the claim are rejected in view of the explanation set forth in claim 22 above.

Regarding **claim 35**, the limitations of the claim are rejected in view of the explanation set forth in claim 22 above.

Regarding **claim 36**, the limitations of the claim are rejected in view of the explanation set forth in claim 22 above.

Regarding **claim 37**, the limitations of the claim are rejected in view of the explanation set forth in claim 21 above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 9 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak, in view of well-known prior art (see MPEP 2144.03).

Regarding **claim 9**, Novak discloses everything claimed as applied above (see claim 8. Further, Novak discloses video compressed according to all MPEG standards, including MPEG4, which reads on the claimed, "where the media files are stored in various media formats, where video is stored as MPEG4," as disclosed at column 5, lines 41-47. However, although Novak discloses the media program may include any type of audio and/or video program (see column 2, lines 35-36), Novak does not explicitly disclose "audio is stored as MP3." The examiner maintains that it was notoriously old and well known in the art to store audio as MP3, and therefore takes Official Notice.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for distributing personalized editions of media programs using bookmarks of Novak to specifically include audio is stored as MP3, for the purpose of conserving bandwidth and storage capacity by using a lossy compression scheme.

Regarding **claim 31**, Novak discloses everything claimed as applied above (see claim 30). Further, the examiner maintains the claim is the corresponding computer program implementing the method of claim 9, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 9 above.

**Claims 17, 19-20, 32, and 39-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak, in view of Ellis et al (US Patent 5,436,653), hereinafter referred to as Ellis.

Regarding **claim 17**, Novak discloses everything claimed as applied above (see claim 5). However, Novak fails to disclose wherein the analysis includes at least one of a fast fourier transform (FFT) of each end point frame to form media producer fast fourier transform (FFT) data, and a decimation of each end point frame to form media producer decimated data. The examiner maintains that it was well known in the art to include the missing limitations, as taught by Ellis.

In a similar field of endeavor, Ellis discloses a method and system for recognition of broadcast segments. Further, Ellis discloses the video and audio signals are supplied to the segment recognition subsystem (26), wherein frame signatures for each of the video and audio signals are generated which are thereafter compared to stored key signatures to determine if a match exists, the match information grouped for storage in a database, the video signals undergoing a vector transformation and the digitized audio supplied to the transformation and signature extraction module (206) which utilizes a FFT process for generating audio frame signatures and corresponding mask words, which reads on the claimed, "wherein the analysis includes at least one of a fast fourier transform (FFT) of each end point frame to form media producer fast fourier transform (FFT) data, and a decimation of each end point frame to form media producer decimated data," as disclosed at column 10, lines 15-32; column 12, lines 40-53; and column 20, lines 13-17.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for distributing personalized editions of media programs using bookmarks of Novak to include the video and audio signals are supplied to the segment recognition subsystem (26), wherein frame signatures for each of the video and audio signals are generated which are thereafter compared to stored key signatures to determine if a match exists, the match information grouped for storage in a database, the video signals undergoing a vector transformation and the digitized audio supplied to the transformation and signature extraction module (206) which utilizes a FFT process for generating audio frame signatures and corresponding mask words, as taught by Ellis, for the purpose of allowing a computer to identify specific segments of a broadcast program.

Regarding **claim 19**, the limitations of the claim are rejected in view of the explanation set forth in claim 17 above.

Regarding **claim 20**, the limitations of the claim are rejected in view of the explanation set forth in claim 17 above.

Regarding **claim 32**, the limitations of the claim are rejected in view of the explanation set forth in claim 17 above.

Regarding **claim 39**, the limitations of the claim are rejected in view of the explanation set forth in claim 32 above.

Regarding **claim 40**, the limitations of the claim are rejected in view of the explanation set forth in claim 19 above.

Regarding **claim 41**, the limitations of the claim are rejected in view of the explanation set forth in claim 20 above.

**Claims 18 and 33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak, in view of Ellis, further in view of well-known prior art (see MPEP 2144.03).

Regarding **claim 18**, the combination of Novak and Ellis discloses everything claimed as applied above (see claim 17). Further, the examiner takes Official Notice that it was old and well known in the art to include wherein a video frame is represented by a two- dimensional fast fourier transform (FFT), and an audio frame is represented by a one- dimensional fast fourier transform (FFT).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Ellis to include wherein a video frame is represented by a two- dimensional fast fourier transform (FFT), and an audio frame is represented by a one- dimensional fast fourier transform (FFT), for the purpose of allowing a computer to identify specific segments of a broadcast program.

Regarding **claim 33**, the combination of Novak and Ellis discloses everything claimed as applied above (see claim 32). Further, the limitations of the claim are rejected in view of the explanation set forth in claim 18 above.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tokmakoff et al (Proceedings of SPIE Vol. 4519, pages 168-179) discloses "Home Media Server content management" (with particular emphasis on sections 4, 5, and 6).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC DAZENSKI whose telephone number is (571)270-5577. The examiner can normally be reached on M-F, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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